IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Osamu KOBAYASHI

Application No.: 10/762,680

Filed: January 21, 2004

Title: PACKET BASED HIGH DEFINITION HIGH-BANDWIDTH DIGITAL CONTENT PROTECTION

Attorney Docket No.: GENSP047

Examiner: Dant B. Shaifer Harriman

Group: 2134

Confirmation No.: 5247

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop **AF**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests review of the Final Rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated below.

Claims 1, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huuhtanen (European Patent Publication EP 0 674 441 A1; hereinafter "Huuhtanen") in view of Pasqualino (US Publication No. 2002/0163598 A1; hereinafter "Pasqualino") further in view of Kluttz (US Patent No. 6,598,181).

It is respectfully submitted that the cited references, either individual or in combination, do not disclose every limitation recited in independent claims 1, 6, and 12. More specifically, with respect to claim 1, it is respectfully submitted that the cited references do not disclose "forming a first group of encrypted data packets by encrypting some of the data packets based upon a first set of encryption values" and "forming a second group of encrypted data packets by encrypting those data packets not already encrypted based upon a second set of encryption

values" for "related data packets." The Applicant previously successfully argued that Huuhtanen and Pasqualino fail to teach these elements. In response to this, the Examiner cited newly found reference Kluttz reference as allegedly teaching these elements. Applicant respectfully disagrees.

Kluttz discloses encrypting different parts of a document using different encryption keys. There is nothing in Kluttz, however, that suggests that the encryption could occur on packets as opposed to a document. Indeed, Kluttz purported reason for the multi-level encryption is to "provide differing levels of access to the document without separately providing information about which portions of the document are encrypted with which encryption keys." This has nothing to do with protecting a file when transmitting it via packets, and indeed the entire Kluttz reference appears to be directed towards a single computer system, not a computer network.

To put it simply, encrypting different parts of a document is not the same as encrypting different packets, and thus the prior art fails to teach or suggest elements of claim 1.

For the above reasons, amended independent claim 1 is patentably distinct from the cited references. Independent claims 6 and 12 recite similar limitations and are therefore patentably distinct from the cited references for the same reasons as applied to claim 1.

Dependent claims 2-5, 7-11, 13-16, 18, 19, and 20 directly or indirectly depend from claims 1, 6, and 12, and are therefore respectfully submitted to be patentable over the art of record for at least the reasons set forth above with respect to the independent claims. Further, these dependent claims recite additional limitations that when considered in the context of the claimed invention further patentably distinguish the art of record.

REMARKS

I am the attorney or agent acting under 37 CFR 1.34

Respectfully submitted,
BEYER LAW GROUP LLP

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